

Exhibit E

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SAN JOSE DIVISION

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1 Q. And what policy do you believe was being served by U.S. Bank
2 in not providing copies of reports under Section 7.14 to
3 Finisar that it had provided to holders?

4 A. Repeat the question.

5 Q. Yes. What policy, if any, do you believe was being supported
6 or implemented or furthered by U.S. Bank not providing to
7 Finisar a copy of the reports that U.S. Bank contended it was
8 providing to the holders under Section 7.14 of the
9 indentures?

10 MR. WAHL: Object to the form.

11 THE WITNESS: Yeah, I wouldn't say that
12 our policy is not to provide it to the company, but the
13 policy is that we have complied with providing information to
14 the holders, any material information. And everything that
15 we provided to the holders, the exact information was
16 previously provided to Finisar first. So there isn't any
17 information we've provided to the holders that Finisar wasn't
18 provided with.

19 Q. (BY MR. BRENNAN) Other than the reports itself?

20 A. Right, which essentially said the same thing.

21 MR. WAHL: Off the record.

22 (Recess 11:07-11:13.)

23 MR. BRENNAN: I'd ask the reporter to
24 mark as our next exhibit in order, which will be No. 3, a
25 document from U.S. Bank entitled "Notice To Holders of

1 Finisar Corporation 5-1/4 Percent Convertible Subordinated
2 Notes Due 2008." This document bears Bates No. USB FIN
3 00626. And I'll represent this is one of the documents that
4 was produced by U.S. Bank in response to Finisar's discovery
5 request.

6 (Exhibit No. 3 marked
7 for identification.)
8

9 EXAMINATION (Continuing)

10 BY MR. BRENNAN:

11 Q. Ms. Jacobs, do you recognize what's been marked as Exhibit 3?

12 A. Yes.

13 Q. Can you tell me what it is?

14 A. It's a notice to the holders.

15 Q. And is this one of the notices to holders that U.S. Bank
16 thinks under its policy is one of the notices that comports
17 to Section 7.14 of the indentures?

18 A. Yes.

19 Q. Was a copy of this document provided to Finisar prior to
20 Finisar making formal request of it through discovery?

21 A. It may -- it may not, because the purpose of this notice was
22 to tell them that Finisar had commenced an action against us,
23 against the trustee.

24 Q. So would you agree with me, then, that U.S. Bank had not
25 provided to Finisar a document that contained all the same

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1 information that's in Exhibit 3, to Finisar?

2 A. Right. We obviously wouldn't tell Finisar something that
3 they already knew because they took the action.

4 Q. So do you believe that if someone already knows something --
5 a party to the indenture already knows something, that the
6 other party need not provide the information?

7 MR. WAHL: Object to the form.

8 THE WITNESS: That it -- repeat the
9 question, please.

10 Q. (BY MR. BRENNAN) Are you suggesting that under the
11 indentures, if one party to the indentures already knows
12 something that the other party, despite the language of the
13 indenture, need not provide that information?

14 A. No. I was just merely stating why we might not have sent
15 Finisar a notice telling them about actions that they had
16 taken.

17 MR. BRENNAN: We'll have marked as
18 Exhibit 4 a document entitled "Notice To Holders of Finisar
19 Corporation 2-1/2 Percent Convertible Senior Subordinated
20 Notes Due 2010."

21 (Exhibit No. 4 marked
22 for identification.)

23 Q. (BY MR. BRENNAN) Have you previously seen the original or a
24 copy of Exhibit 4?

25 A. Yes.

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1 Q. Did you prepare Exhibit 4?

2 A. It was prepared by counsel.

3 Q. Did you prepare Exhibit 3?

4 A. Exhibit 3 was the one we just looked at?

5 Q. Yes.

6 A. That was also prepared by counsel.

7 Q. It appears that Exhibit 3 and 4 are virtually identical but
8 for the different notes and indentures identified. Is that
9 correct?

10 A. That appears to be the case.

11 Q. And was a similar notice also prepared with respect to the
12 2-1/2 percent note?

13 A. I would assume so.

14 Q. Now, if you -- I guess we can pick either Exhibit 3 or 4.

15 Let's use Exhibit 3. If you look at the last
16 paragraph, it states, quote, Holders with questions regarding
17 this notice should direct them in writing to Diana Jacobs,
18 Vice President, U.S. Bank National Association. And it gives
19 your address, correct?

20 A. Correct.

21 Q. Did you receive any questions or inquiries from any holders
22 after the issuance of these notices, Exhibits 3 and 4?

23 A. I'm trying to remember the time. I received an inquiry from
24 a holder regarding one of our notices. I'm not sure if it
25 was this particular notice.

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EXAMINATION (Continuing)

BY MR. BRENNAN:

Q. Ms. Jacobs, I had previously shown you Exhibit Nos. 3 and 4, which are notices to holders from U.S. Bank dated April 24th, 2007, and they pertain to the 5-1/4 and the 2-1/2 senior. And what I'd like to do is show you another one, which we'll have marked as our next exhibit in order, which appears to be an April 24, 2007, notice with respect to just the regular 2-1/2 percent.

(Exhibit No. 10 marked
for identification.)

Q. (BY MR. BRENNAN) Do you recognize what's been marked as Exhibit 10?

A. Yes.

Q. Can you tell me what that is?

A. It's a notice to the holders regarding the litigation.

Q. And to your knowledge, was a copy of Exhibit 10 provided to Finisar Corporation prior to its request for discovery in this case?

A. Was a copy of this notice provided to Finisar?

Q. Yes.

A. To my knowledge, it was.

Q. And why do you think a copy of that was provided to Finisar prior to Finisar's request?

A. I'm sorry. Prior to their request for discovery? Then no, I

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1 don't think so.

2 MR. BRENNAN: I'll have the reporter mark
3 as Exhibit 11 a document entitled "Notice To Holders of
4 Finisar Corporation 5-1/4 Percent Subordinating Note." It
5 appears to bear a date of January 11th, 2008, and it has
6 production control numbers 001035, 001036.

7 (Exhibit No. 11 marked
8 for identification.)

9 Q. (BY MR. BRENNAN) Do you recognize Exhibit 11?

10 A. Yes.

11 Q. Can you tell me what that is?

12 A. It's a notice to holders regarding the litigation and the --
13 letting the holders know that the company filed their overdue
14 10-Qs and 10-K.

15 Q. And was a copy of Exhibit 11 provided to Finisar?

16 A. This is again prior to discovery request?

17 Q. Yes.

18 A. I don't believe so.

19 Q. And does U.S. Bank consider Exhibit 11 to be a report to
20 holders under Section 7.14 of the indentures?

21 MR. WAHL: Object to the form.

22 THE WITNESS: This would fall under next
23 year because it's 2008, I would say.

24 MR. BRENNAN: We'll have marked as
25 Exhibit 12 a document entitled "Notice To Holders Finisar